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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/780,260 | 02/17/2004 | Marvin A. Wallace | 8328.001 | 3427 |
| 30589 | 7590 | 02/25/2005 | EXAMINER | |
| DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113 | | | ADDIE, RAYMOND W | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3671 | |

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,260

Applicant(s)

WALLACE, MARVIN A.

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/17/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: Line 3, the word "move"; should be --moved--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ransome # 975,457.

Ransome, as cited by the Applicant, discloses a device (unnumbered) for filling an open trench (a) with dirt (c) lying alongside the trench (a) the device comprising:

A skid (19a, 20a) mounted frame (10). Said frame having a forward end and a rear end sized to span said open trench.

Means (19) in the forward end of the frame for moving the previously removed dirt (c) generally into and over the trench (a).

Means (16) in the frame for temporarily leveling the dirt (c) moved into and over the trench (a).

Means (17) in the frame for compacting the temporarily leveled dirt (c).

At least one vertical side plate (18) at each side of said frame (10).

At least one skid (19a, 20a) disposed along a lower edge of each said side plate (18).

Wherein said means (19) includes a plurality of converging scraper blades (19),
adjustably supported in the frame.

Further wherein said means (16) comprises a scraper blade (16) extending across the
frame.

Still further wherein said means (17) comprises a compaction roller rotatably supported
across the frame (10).

See Fig. 1-3; See also col.1, ln. 37-col. 3, ln. 37.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ransome #
975,457 in view of Reece # 4,539,765.

Ransome discloses a skid mounted device for filling trenches but does not disclose
mounting the device to a vehicle.

However, Reece teaches skid (12, 20) mounted trench filling devices (6) are

advantageously dragged behind tow vehicles (2), in order to accurately level, windrowed spoil (5), into a trench (3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the trench filling device of Ransome, with vehicle attachment assembly, as taught by Reece, in order to quickly refill a trench. See Reece Cols. 1-2.

5. Claims 7, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ransome # 975,457 in view of Otto et al. # 6,520,717.

Ransome discloses a device for filling trenches but does not disclose using rubber tires for pre-compacting/leveling the refilled trench. However, Otto et al. teaches rubber tire assemblies (10) can be towed behind trench filling machines (12), for repeated compacting of soil (S), pre-leveled by a trench filling device (12). See Col. 2, ln. 66- col. 3, ln. 50.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ransome # 975,457 in view of Otto et al. # 6,520,717 as applied to claim 7 above, and further in view of Berrange # 4,019,825.

Ransome in view of Otto et al., disclose a trench filling device having a plurality of devices to fill, level and compact spoil (5) into a trench (3); to include selectively, biasing the compacting wheels, via hydraulic pressure means (H), to control the compacting force, applied to the filled trench. What Ransome in view of Otto et al., do not disclose

is biasing the compacting wheels with a spring assembly. However, Berrange teaches air spring assemblies (11) reliably and accurately suspend compacting wheels (1) on a tow-able frame (6). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the trench-filling/compacting device of Ransome in view of Otto et al., with an air spring assembly, as taught by Berrange, in order to reduce vibration transmission to the frame (6). See cols. 2-3.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee # 1,384,617 discloses a trench filling device. Spindler # 3,157,139 discloses a trench filling device. Wyatt # 3,471,953 discloses a trench filling device. Couch # 3,797,582 discloses a trench filling device. Van der Lely et al. discloses a trench filling device. Shepherd # 5,114,269 discloses a trench filling device. Palm et al. # 5,526,590 discloses a trench compactor. Coutarel et al. # 5,659,983 discloses a trench filling device. Gillespie # 5,845,717 discloses a trench filling device. Peterson # 6,273,637 B1. Philpott # 6,607,330 B2 discloses a trench filling device.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9326.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

On or about 3/30/05 Examiner Addie's telephone number will become (571) 272-6986.


Raymond Addie
Patent Examiner
Group 3600